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BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

----- In the Matter of the Application of -----) PUC Docket 05-0069
)
)
HAWAIIAN ELECTRIC COMPANY, INC.)
)
For Approval and/or Modification of)
Demand-Side and Load Management Programs and)
Recovery of Program Costs and DSM Utility Incentives)

PUBLIC UTILITIES
COMMISSION

2005 OCT 24 A 10:36

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LIFE OF THE LAND'S

SIMULTANEOUS POST-HEARING OPENING BRIEFS

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CERTIFICATE OF SERVICE

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Aloha Commissioners,

The Public Utilities Commission ("Commission") opened Docket No. 05-0069 to examine statewide energy efficiency programs. Life of the Land ("LOL") is one of a dozen or so parties/participants admitted into the docket by the Commission.¹ The issues in the docket were established in Commission Order 22251, dated January 31, 2006.²

Each party filed a Preliminary Statement of Position (PSOP) with the other parties, participated in discussions, and issues a Final Statement of Position on June 1, 2006. The Commission held Panel Hearings in August.

Several models were proposed: HECO wants to be in charge of Demand Side Management ("DSM") programs, although the utility may choose to outsource the implementation of specific programs. LOL favors an independent third party being in charge. RMI supports something in the middle, leaning towards the utility position. HREA supports competitive bidding for

¹ HECO, MECO, HELCO, KIUC, The Gas Co., Maui County, Kauai County, DCCA, the Department of Defense, U.S. EPA, RMI, HREA, HSEA, LOL

² Statement of Issues: (1) Whether energy efficiency goals should be established and if so, what the goals should be for the State? (2) What market structure (s) is (are) the most appropriate for providing these and other DSM programs (e.g., utility-only, utility in competition with non-utility providers, non-utility providers)? (3) For utility-incurred costs, what recovery mechanism (s) is appropriate (e.g., base rates, fuel clause, IRP Clause)? (4) For utility-costs, what costs are appropriate for recovery? (5) Whether DSM incentives mechanisms are appropriate to encourage the implementation of DSM programs, and, if so, what is the appropriate mechanism (s) for such DSM incentives? (6) Whether the seven (7) proposed DSM Programs (i.e., the CIEE, CINC, REWH, RNC, RLI, and ESH programs), the RCEA program, and/or other energy efficiency programs will achieve the established energy efficiency goals and whether the programs will be implemented in a cost-effective manner? (7) If utility-incurred costs for the programs in issue 6 are to be included in base rates, what cost level is appropriate, and what the transition mechanism for cost recovery will be until the respective utility's next general rate case? (8) Whether HECO's proposed DSM utility incentive is reasonable, and should be approved, approved with modifications, or rejected? (9) Which of the proposed DSM Programs, the RCEA program, and/or other energy efficiency programs should be approved, approved with modifications, or rejected?

the programs. KIUC and the Gas Company support being exempted from any new proposal.

LOL's Position is that conservation (not using energy), energy efficiency (using energy efficiently), and load management (minimizing the need for costly new infrastructure for occasional peaks by leveling out the peaks/troughs) should always be the first things looked at. Electric utility companies operate under conflicting objectives. An electric utility must sell electricity to earn a profit: while providing customers with energy efficiency devices designed to reduce their electricity usage. This inherent conflict is obvious in the case of HECO's proposed 2009 power plant at Campbell Industrial Park. In analyzing several alternative future scenarios, HECO insisted that every one of them had to have a new plant in 2009, not 2010, not 2008, not alternative energy, not energy efficiency, but there bread-and-butter power plant which would maximize their oil profits.

Therefore we proposed that Energy Efficiency programs be removed from the utility and placed with a third party. This innovative approach has been successfully applied in Vermont, Oregon New York, and elsewhere. In Vermont, Energy Efficiency is a Negawatt Utility fully regulated by the Vermont PUC. The Consumer Advocate supports our position and the Department of Defense does not oppose it.

During the Panel Hearing, HREA raised the issue of Sea Water Air Conditioning (SWAC).

Following the Evidentiary Hearing, HREA submitted additional information, parties were allowed to filed Information Requests with HREA, and subsequently all parties filed additional comments

with The Commission. The SWAC filings support our arguments.

According to HECO's FSOP: 'Maximum achievable potential ("MAP") represents the maximum amount of energy efficiency that is obtainable from measures covered by the utilities' DSM programs. (page 10) MAP also assumes highly aggressive and costly advertising and marketing efforts. ... the utilities need to provide a portfolio of programs, procedures, incentives, and educational messages, to attract the customer's attention. (page 11)

And yet, one installing one SWAC system (Oahu could have 8!), the amount of energy savings dwarfs the amount of energy savings HECO gets from all of their DSM programs combined. Furthermore, installing a number of systems would threaten HECO's alleged need for their proposed 2009 Power Plant.

This forces us to ask the fundamental question: Why are we doing DSM? Is it (a) its what we do; (b) its what we've done; or (c) it continues business-as-usual. Or is it: (a) climate change is the most serious threat to our civilization; (b) its less polluting; (c) it delays the advent of peak oil; (d) its cheaper in the long-run; or (e) we must reduce our dependence on foreign oil.

LOL supports the latter. The Commission should issue an RFP for a third party administrator.

Issue 1: What should the goals for the state be? LOL: The state should not have goals but requirements. Electric generators have emission requirements. Highways have speed limits.

Issue 2: Market structure? LOL: Third-party administration, Commission regulation.

Issue 6: Whether the proposed programs will achieve the goals? LOL: The state should have higher requirements, we should pursue proposals such as Sea Water Air Conditioning.

Issue 8: Whether HECO's proposed DSM utility incentive is reasonable? LOL: Third-party administration, Commission regulation.

Issue 9: Which programs should be approved? LOL: In the short run all lets continue what we are doing, but then shift to Third-party administration, Commission regulation.

HENRY CURTIS BIOGRAPHY

Henry Curtis is Executive Director of Life of the Land (LOL), Hawai'i's own environmental and community action group advocating for the people and the `aina since 1970. Henry has been LOL's Executive Director since 1995 concentrating on energy, environmental and social justice issues.

Henry has distinguished himself through his extensive research into and understanding of energy issues. He spent 40 hours a week, 50 weeks a year for 10 years seeking to understand energy issues in Hawai'i.

He toured the massive Luz Solar Power facility in California's Mojave desert; HECO's Kahe Generation Station; HECO's Energy Management System facility at Ward Avenue; HECO's Fuel Cell facility; the Kalaeloa Cogeneration facility; HPOWER; Mauna Lani Hotel Photovoltaic System; the Building Integrated Photovoltaic (BIPV) System at Ford Island; and cogeneration facilities at Fort Smith, Pauahi Tower (Chinatown) and Pohai Nani (Kaneohe).

He attended briefings by Bob Gough (Intertribal Council On Utility Policy), Ms. Paula DiPerna, Executive Vice President of the Chicago Climate Exchange (CCX); and the First Pacific Rim Summit on Industrial Biotechnology and Bioenergy.

He has become the community's voice on energy issues and has successfully brought that perspective to the Legislature and countless other venues where the community has not traditionally been heard. He is committed to Hawai'i's energy self-sufficiency and well being.

Henry is powered by the values of aloha `aina and malama `aina and is constantly motivated by his aloha for the community.

Henry has a B.A. in Economics from Queens College, City University of New York (CUNY). The program specialized in economic and mathematical theory. He completed the course work towards a masters degree in economics, specializing in macroeconomics and resource economics.

He has served on a military Technical Review Committee (TRC) and on several Restoration Advisory Boards (RAB) monitoring and advising the military on cleanup issues for the army, navy and air force. He served as Community Co-Chair of the Hickam Air Force Base RAB from 1996-2005. He attended several Army and Navy workshops on risk analysis; and the U.S. Air Force Environmental Justice Workshop. He served on the Department of Health's Source Water Assessment Project Community Advisory Group.

He was a Participant in the Roundtable Participant in Resolve Inc, U. S. Institute for Environmental Conflict Resolution, and the Western Justice Center Foundation's Managing Scientific and Technical Information in Environmental Cases: Principles and Practices for Mediators and Facilitators.

As Executive Director of LOL he has been involved with several non-military toxic campaigns including securing money for soil testing, monitoring a superfund site, and reviewing environmental documents focusing on brownfields and toxics.

Henry represented LOL in the Board of Land and Natural Resources (BLNR) contested case hearing regarding the proposal to put a high-voltage transmission line Wa`ahila Ridge.

Henry has represented LOL's interests at HEI's annual shareholder meetings and represented LOL before the Public Utilities Commission in eight (8) dockets on Distributed Generation,

Investigation of Restructuring, Energy Efficiency, Integrated Resource Planning, Distributed Generation; Power Generation, and Transmission and has testified in three (3) dockets. His testimony was on energy policy, environmental impacts, externalities, economics, biofuels, ocean power and climate change.

He made numerous presentations before widely differing groups including the Hawai'i Chamber of Commerce; Engineers & Architects of Hawaii; BYU; Hawaii Society for International Friendship; University of Hawai'i film series: Beyond Oil; Ilima Hotel Employees; Hawaii Democratic Women's Caucus; and a few dozen community panel discussions.

He has appeared on TV and Radio Shows, including the Price of Paradise Show with Randy Roth; Capitol Focus Looks at Environment, Energy; Town Square, hosted and produced by Beth-Ann Kozlovich; HPR with Noe Tanigawa; 'Olelo, Ho'ike, Akaku, and Na Leo 'O Hawaii.

He wrote several articles, including: Commentary: Power to the People . Honolulu Advertiser (July 6, 1997)* Kamoku-Pukele Line: Is there an Alternative? The Chamber of Commerce of Hawaii's Voice (September 14, 1998) * Ethanol: Good idea or just sweet talk Haleakala Times (May 23, 2006) * Commentary: Plugging in to renewable energy Honolulu Advertiser (May 28, 2006).

Quotes about Henry Curtis: "a veteran of the RPS fight in the Legislature" and an "energy wonk" (Honolulu Weekly, November 29, 2000) "Henry Curtis of the energy-watching group Life of the Land" (Environment Hawaii, January 2001) "a frequent HECO critic" (Pacific Business News, June 21, 2004) "closely follows and participates in Hawai'i energy issues" (Environment Hawaii, September 2004).

Certificate of Service

I hereby certify that on May 31, 2006, I have served an electronic copy of Life of the Land's Final Statement of Position, Docket Number 05-0069, Energy Efficiency, upon the following parties/participants.

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Dated: October 25, 2006



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